

## **District Best Practices Administrative Chapter Addendum**

### **I. Background**

This Addendum compliments 'Chapter 2 – Program Administration' by describing voluntary Best Practices that go beyond minimum Carl Moyer Program administrative requirements, and which districts can use to run more effective programs. While ARB encourages districts to include these Best Practices in their local programs where possible, not all Best Practices are equally applicable to all air districts. For example, consolidated post-inspections may not be feasible for a rural district with few projects.

Some of following Best Practices are based Department of Finance and Bureau of State Audits recommendations provided to ARB as part of their reviews of the Carl Moyer Program. Other practices are being used by air districts to improve their implementation of the Carl Moyer Program. All Best Practices identified in this Addendum are foot noted with their source.

### **II. Responding to ARB's Carl Moyer Program Solicitation**

#### **Best Practice #1**

Districts are encouraged to request Carl Moyer program funds in excess of the tentative allocation for their district, as long as the district has sufficient district funds available to match the State Carl Moyer Program funds being requested.

Thus if and when funds become available from other districts that are unable to accept and keep their tentative allocation, the districts requesting an excess amount are in a position to accept additional funds.<sup>1</sup>

#### **Best Practice #2**

Districts are encouraged to have the district Board approve a multi-year resolution to accept Carl Moyer Program funding and implement the program consistent with the current Guidelines. Since the Carl Moyer Program is now funded through 2015, a multi-year resolution saves the district from having to draft and pass a new resolution each year. When submitting the district's application to ARB each year, the district may simply include a copy of the multi-year resolution to indicate the resolution is still in force.<sup>2</sup>

### **III. Reporting to ARB**

#### **Best Practice #3**

Districts that commit and expend their Carl Moyer Program funds early (commit with fully executed contracts before June 30 of the first ~~calendar~~ year, expend before June 30 of the second ~~calendar~~ year) are encouraged to complete the required annual/final report before the due date (August 31). In addition, if a district has completed the commitment (with fully executed contracts) and expenditure of Carl Moyer Program funds by June 30 of the first ~~calendar~~ year, the district is encouraged to complete one combined annual/final report.<sup>3</sup>

### **IV. Fiscal Tracking**

#### **Best Practice #4**

Districts that maintain a segregated account for Carl Moyer Program funds (separate from all other district funds) have an exact accounting of earned interest instead of having to compute earned interest. For this reason, and others, maintaining a segregated account for Carl Moyer program funds is a best practice.<sup>4</sup>

### **V. District Outreach**

#### **Best Practice #5**

While districts are required to market the Carl Moyer Program to all sectors in their community, the methods for doing so are left to each district. The ARB encourages districts to vigorously outreach to all sectors of the community. Below are brief descriptions of the types of practices that could be included as part of a district's outreach activities.<sup>5</sup>

#### **A. List of Interested Parties**

Districts should maintain a list of interested parties throughout the year and mail a notification to the parties on the list when funds are available. This list should also include prior applicants, public agencies (e.g. public works departments, sanitation departments, school districts), engine dealers/distributors, and where appropriate, port authorities, and farm bureaus.

#### **B. Local Newspaper Announcement**

Districts are encouraged to put a notification of funds available announcement in local newspapers, in locally based trade newsletters including the local farm bureau and in the trade journals of organizations

representing zero-emission technologies such as the Clean Cities Coalition and WestStart-CALSTART.

#### C. Notification through District Mediums

If the district has a website, the Carl Moyer Program solicitation should be advertised on the district's website. Similarly, if the district has a newsletter, the Carl Moyer Program solicitation should be advertised in the district's newsletter. And, if the district maintains a 24-hour message line the solicitation should also be advertised there<sup>6</sup>

#### D. Prior Participants

Districts should solicit additional projects from prior participants with successfully implemented projects, especially during monitoring visits.

#### E. Small Business

Districts are encouraged to expand the participation of small business by advertising to targeted industries, offering workshops to the engine dealer network, and offering to assist small business owners with the completion of the application. For example, many urban districts have found the construction industry to be a viable source of projects, when the districts provide outreach, training and technical assistance to the many small businesses that own qualifying equipment.

#### F. Agricultural Community

Districts with agricultural communities are encouraged to contact the local agricultural department and request that a flyer be posted that will be visible to farmers when they come in to get their pesticide use permits.

#### G. Public Presentations

Districts are encouraged to distribute a brochure or other informational hand-out at events and industry workshops attended.

#### H. Advertising

Districts may consider requiring their grantees to place a logo or decal on the new engine(s) advertising that the engine was funded by the district and ARB with Carl Moyer Program funds.

#### Best Practice #6

While districts are encouraged to outreach to all sectors of their community to increase and improve the applicant pool, districts are also encouraged to develop

and implement techniques to measure the effectiveness of their outreach activities. Specifically, districts are encouraged to identify business sectors from which they will obtain applications for more cost-effective projects, evaluate whether their current outreach efforts are reaching those sectors, implement outreach activities to target sectors not being reached, and assess whether their outreach efforts enable them to select projects with more cost effective emission reductions<sup>6</sup>

## **VI. District Applications for Projects**

It is not possible for districts to implement both best practices 7 and 8. Each district must assess their implementation of the Carl Moyer Program and decide which (if either) of these practices best suits their district.

### **Best Practice #7**

For consistency throughout the Carl Moyer Program, to assist applicants statewide and to limit confusion, ARB encourages districts to use the same application form for the Carl Moyer Program. The application is available on the Carl Moyer Program web site at

[http://www.arb.ca.gov/msprog/moyer/admin\\_forms/admin.htm](http://www.arb.ca.gov/msprog/moyer/admin_forms/admin.htm).<sup>7</sup>

### **Best Practice #8**

When districts operate more than one incentive program, use one application form for all of the incentive programs. This streamlines and simplifies the application process for potential applicants.<sup>8</sup>

## **VII. Tracking**

Districts have a number of best practices for tracking applications, proposed projects and the status of funded projects.

### **Best Practice #9**

Districts are encouraged to use a contract signature tracking sheet which follows the contract from initiation through signing and filing. The tracking sheet may list each staff person (i.e. the APCO, the Administrative Analyst, the Contracts and Records Management Coordinator and the Carl Moyer Program Manager) who must review and approve the contract, and includes spaces for initials and date of review.<sup>9</sup>

### **Best Practice #10**

Districts are encouraged to maintain a hard copy or electronic contract log of all district contracts that tracks the status and location of each contract. An electronic contract log has the advantage of being accessible to all district staff.<sup>10</sup>

### **Best Practice #11**

Districts are encouraged to maintain a checklist in their project folders to make sure all of the appropriate documentation is there. The check list may define

where the specific documentation may be found in the folder or in electronic files. ARB encourages districts to have staff (project manager and field inspector) cross check these folders by having another staff person verify the folder is complete. Such a checklist makes it easier for staff (current and new) and auditors to know project status and where documentation may be found.<sup>11</sup>

## **VIII. Environmental Justice**

### **Best Practice #12**

Districts with a population of less than one million inhabitants are encouraged to incorporate an environmental justice component in their local Carl Moyer Program. The requirements for environmental justice may be found at Section 27(l) of the administration chapter of these Guidelines and at HSC section 43023.5.<sup>12</sup>

### **Best Practice #13**

District are encouraged to periodically reassess their environmental justice policies and procedures, particularly their definition of environmental justice areas.<sup>13</sup>

### **Best Practice #14**

To better identify communities with the highest concentrations of pollutants, include a measure of pollution (i.e. level of particulate matter in the community) or the effects of pollution (i.e. cancer hot spots) in a district's approach for identifying disproportionately impacted communities.<sup>14</sup>

### **Best Practice #15**

To maximize emission reductions in districts that competitively rate and rank their applications, include a measure of the cost per ton of emission reductions when selecting projects in disproportionately impacted communities.<sup>15</sup>

### **Best Practice #16**

To ensure funds from the environmental justice set aside continue to benefit disproportionately impacted communities, districts should consider a contract requirement that the projects selected from disproportionately impacted areas continue to provide benefits from reduced emissions to those communities after implementation.<sup>16</sup>

## **IX. Project Selection**

### **Best Practice #17**

To expand the applicant pool and provide an opportunity for engine owners that operate in more than one district, districts are encouraged to refrain from setting

a minimum percent operation in the district and, districts are encouraged to jointly fund inter-district projects.<sup>17</sup>

#### Best Practice #18

To ensure the district is not providing a grant to a company that has outstanding permit violations, districts may check their Program applications against their list of companies that have a notice of violation with the district. One district was able to get a potential grantee to pay the outstanding fine because of this checking.<sup>18</sup>

#### Best Practice #19

To expand the applicant pool to include more small businesses and to capture the emission reductions from an otherwise under represented group, districts are encouraged to provide a preference (in the form of scoring or as a set aside) for small businesses.<sup>19</sup> For the purpose of this best practice a small business may be defined as follows:

- An owner-operated business for the on-road and marine categories
- The same as in the applicable fleet rule (if any). For example, in ARB's Off-Road Fleet Rule, which pertains to the off-road and marine vessel categories, a small business is defined as one with total fleet horsepower less than or equal to 2500 horsepower.
- A Class 3 railroad for the locomotive category.

### **X. Commitment of Funds to Projects**

#### Best Practice #20

Districts are encouraged to commit funds to projects with fully executed contracts as soon as possible, prior to the June 30<sup>th</sup> deadline. This allows more time for completing projects. This may also allow for projects to be completed before the deadline, thus maximizing the ability to gain early emissions reductions.<sup>20</sup>

#### Best Practice #21

To reduce the administrative burden resulting from multiple contracts for one project owner with more than one funded engine/vehicle/piece of equipment, districts should consider using one contract per project owner.<sup>21</sup>

#### Best Practice #22

To more easily track the progress of Carl Moyer funded projects and provide the ability of the district to take appropriate action if a project veers off track, districts should include detailed project milestones in contracts.<sup>22</sup>

#### Best Practice #23

To help districts ensure that they have sufficient time to perform the required post inspections and pay project owners before the two-year availability of Program

funds expires, districts are encouraged to require projects to be completed before the statutory limit for expending the funds. Districts have had good results with requiring completion of projects within six to twelve months of contract execution.<sup>23</sup>

#### Best Practice #24

To focus limited resources on committing funds to projects expeditiously, thereby allowing more time for the implementation of projects, districts are encouraged to obtain delegated authority from their governing boards to approve Carl Moyer Program projects and execute contracts. As an alternative to district governing boards that prefer to maintain approval authority over higher-risk projects, the district is encouraged to obtain delegated authority to approve the more routine projects or projects costing less than a certain amount.<sup>24</sup>

#### Best Practice #25

For districts where the governing board desires retaining approval of contracts, invite the engine owners to attend the governing board meeting and have the board representative and engine owners execute the contracts as part of or right after the board meeting. This expedites the execution process and provides a positive forum for the governing board.<sup>25</sup>

#### Best Practice #26

Require engine owners to attend an informational training prior to signing their contracts. This ensures the engine owners understand their contractual obligations and may be used as an efficient process for the districts to get contracts fully executed and distributed.<sup>26</sup>

#### Best Practice #27

To ensure contracts are fully executed in a timely fashion, districts are encouraged to include a term that cancels the contract if it is not executed by the engine owner in a specified time frame (i. e. 30 days).<sup>27</sup>

#### Best Practice #28

To reduce the risk of emission reductions being lost if projects are destroyed, districts are encouraged to include insurance requirements that would cover the cost of the engine/equipment/vehicle, whenever possible.<sup>28</sup>

## **XI. Inspections**

#### Best Practice #29

To make the administration of the program more efficient and effective, district are encouraged to conduct consolidated inspections whenever practicable. For example, a district may perform multiple inspections at the same site on the same day.<sup>29</sup>

## **XII. Engine Destruction**

### **Best Practice #30**

To ensure old engines are not reintroduced into the California market, they must be destroyed in a way that renders them useless.<sup>30</sup> Therefore ARB recommends the following methods of engine destruction:

- A. Break a hole in the lower part of the engine block (near the crank case) with a blow torch and/or sledge hammer. The hole should be 3-4 inches in diameter with jagged edges.
- B. Heat up the engine and bore a 5-inch jagged-edged hole in the engine with a sledge hammer. The hole should catch a water jacket or oil galley, or take off the oil pan and bore the hole right above the oil pan lip or rail.
- C. Using a plasma (or an oxy-acetylene) torch, cut a hole of at least four inches in diameter over at least one crank shaft journal sufficient to destroy the crank bearing and mount. To prevent the reuse of the engine heads, using the same torch, cut a line to a depth of ¼ to ½ inch around the entire accessible mating surface between the engine block and each head.

## **XIII. Project Owner Reporting**

### **Best Practice #31**

To aid districts in their tracking of the progress project owners are making in completing their projects, districts are encouraged to require progress reports during the project completion phase of the contract.<sup>31</sup>

### **Best Practice #32**

To increase engine owners' responsiveness to reporting requirements districts may maintain withhold payments. A set small proportion (five or ten percent) of the contract amount may be withheld by the district until the project owner satisfactorily submits all required progress and annual reports. Districts that have withhold payments as part of the contract with the owner should count the withhold payments as expended, for reporting purposes, once the district pays the invoice(s) for all but the withhold amount<sup>32</sup>

### **Best Practice #33**

To minimize the information required from engine owners and make the format for annual reporting simple and convenient, districts may use the sample forms provided on the Carl Moyer Program website at <http://www.arb.ca.gov/msprog/moyer/moyer.htm>. In addition, ARB encourages



districts to make the reporting forms and timetables for reporting part of their contracts.<sup>33</sup>

#### **XIV. District Due Diligence with Non Performance (This section and section 35 are here as place holders for discussion)**

##### Best Practice #34

In the event a project is not meeting any of the terms of a contract, the district is required to exercise due diligence in bringing the project into conformity with the contract. If a project proponent (engine owner) is not performing for any reason, the district should request the grant funds, or a prorated amount of the grant funds, be returned to the district. Several districts have incorporated such a requirement into their contracts with the engine owners. An example of such contract language is posted on the ARB Carl Moyer Program website at <http://www.arb.ca.gov/msprog/moyer...> Short of requesting a return of funds, there are a number of suggested best practices for maintaining the agreement and obtaining the emission reductions.<sup>34</sup> Please note that each of these suggested best practices are based on particular conditions.

- A. If an applicant sells an engine or vehicle during the project completion term and the annual usage is not meeting the terms of the contract, then a novation agreement may be executed with the new owner. The novation agreement should incorporate the original agreement (with a copy), so the new owner is fully informed and the State's interest is protected. A sample novation agreement is posted on the ARB Carl Moyer Program website at <http://www.arb.ca.gov/msprog/moyer....>
- B. If an applicant's usage is below the amount listed in the application/contract, the district may extend the term of the contract to capture the required number of hours. This practice may only be used if there is no regulation that impacts the term of the contract.

##### Best Practice #35

In the rare event that the district is unable to secure the emission reductions through the means listed in best practice # 34 (above), the district must exercise due diligence in trying to recapture the original grant funds or bringing the project into conformance with the contract. The best practices listed below are examples of due diligence.<sup>35</sup>

- A. Districts should consider a progressive course of action. Districts may devise the progressive course of action in consultation with their legal counsel. The development of, the course of action and the results should be documented in writing and included in the project file.

- B. An initial course of action that has provided results is for Program staff to put pressure on the engine owner to negotiate an appropriate resolution. The next level of a progressive course of action may include legal counsel writing the engine owner a letter demanding repayment of the funds or some other suitable resolution. In some cases it may be appropriate for the next level of the progressive course of action to include the district taking legal action against the owner for noncompliance, especially if fraud or malfeasance is involved. If a district plans to take legal action against an engine owner, it is recommended for the district to inform ARB, especially if fraud or malfeasance is involved.

## **XV. Transparency of the Program**

### Best Practice #36

To provide the public with information on the Carl Moyer Program at each district the ARB encourages each district to report annually to their governing board and to post the annual report on the district's website. Such a report should include the following topic areas:<sup>36</sup>

- A. Total applications received for current year's funds
- B. Efforts and results of outreach to potential environmental justice, zero-emission projects, and small business project owners
- C. A list of the funded projects
- D. The status of the commitment and expenditure of the current year's funds
- E. The status of the commitment and expenditure of previous years' funds
- F. District monitoring and auditing efforts and results, including any audits completed by independent third parties
- G. The status of emissions reductions by projects in the implementation phase of their contracts, including reasons for and solutions to shortfalls for projects that do not perform as projected
- H. Outstanding features and accomplishments of the district
- I. Challenges for the district in implementing the Carl Moyer Program

- J. The district's policies and procedures

## **XII. Forms and Formats**

### **Best Practice #37**

Several districts have been recognized for having model forms and formats that other districts may want to use. These forms and formats have been made electronically available on the Carl Moyer Program webpage at <http://arb.ca.gov/>. These forms and formats include, but are not limited to, the following:

- A sample notification of award letter
- ...

Before using any of the posted forms or formats the district should be contacted to check for updated forms and formats that may have not been posted.

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<sup>1</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines

<sup>2</sup> Sacramento Metropolitan Air Quality Management District practice

<sup>3</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines

<sup>4</sup> Butte County Air Quality Management District and Glenn County Air Pollution Control District practices

<sup>5</sup> Department of Finance audit recommendation and Health and Safety Code section 44290; 5a-common practice among districts; 5b-trade journals San Luis Obispo Air Quality Management District practice & Farm Bureau Newsletter Monterey Bay Air Pollution Control District practice; 5c-common practice in districts' newsletters & solicitation on 24-hour message line San Joaquin Valley Air Pollution Control District practice; 5d-common practice among districts; 5e-workshops with engine dealers San Joaquin Valley Air Pollution Control District practice & outreach, training and technical assistance to construction industry Sacramento Metropolitan Air Quality Management District practice; 5f-common practice among districts; 5g-San Joaquin Valley Air Pollution Control District practice; and, 5-h- Sacramento Metropolitan Air Quality Management District and Ventura County Air Pollution Control District (for boats) practice

<sup>6</sup> Bureau of State Audits audit recommendation

<sup>7</sup> Department of Finance audit recommendation

<sup>8</sup> Bureau of State Audits audit recommendation

<sup>9</sup> Butte County Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District and Santa Barbara Air Pollution Control District practice

<sup>10</sup> Butte County Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District practices

<sup>11</sup> Sacramento Metropolitan Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District practice

<sup>12</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines

<sup>13</sup> Bureau of State Audits audit recommendation

<sup>14</sup> Bureau of State Audits audit recommendation and Bay Area Air Quality Management District practice

<sup>15</sup> Bureau of State Audits audit recommendation

<sup>16</sup> Bureau of State Audits audit recommendation and Bay Area Air Quality Management District practice

<sup>17</sup> Bureau of State Audits audit recommendation

<sup>18</sup> Sacramento Metropolitan Air Quality Management District practice

<sup>19</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines

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- <sup>20</sup> South Coast Air Quality Management District practice and Bureau of State Audits audit recommendation
- <sup>21</sup> Bureau of State Audits audit recommendation
- <sup>22</sup> Bureau of State Audits audit recommendation and Bay Area Air Quality Management District practice
- <sup>23</sup> Bureau of State Audits audit recommendation and Bay Area Air Quality Management District practice
- <sup>24</sup> Bureau of State Audits audit recommendation
- <sup>25</sup> Ventura County Air Pollution Control District practice
- <sup>26</sup> South Coast Air Quality Management District practice
- <sup>27</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines
- <sup>28</sup> Requirement from the Administration Chapter of the 2005 Carl Moyer Program Guidelines, which has been reduced to a Best Practice based on cost benefit analysis for particular source categories (i.e. marine and ag pumps)
- <sup>29</sup> Bureau of State Audits audit recommendation
- <sup>30</sup> Requirement from the Administration Chapter of the 2005 and 2007 Carl Moyer Program Guidelines 29a- San Joaquin Valley Unified Air Pollution Control District practice; and, 29b- Sacramento Metropolitan Air Quality Management District practice
- <sup>31</sup> South Coast Air Quality Management District and Ventura County Air Pollution Control District practice
- <sup>32</sup> South Coast Air Quality Management District practice
- <sup>33</sup> Department of Finance audit recommendation
- <sup>34</sup> To fulfill this requirement of the Administration Chapter of the 2008 Carl Moyer Program Guidelines 34a-a common practice for districts though the posted novation agreement is from San Joaquin Valley Air Pollution Control District; and 34b- common practice among districts
- <sup>35</sup> To fulfill this requirement of the Administration Chapter of the 2008 Carl Moyer Program Guidelines 35b-San Luis Obispo Air Quality Management District had good results when Program staff meet with an engine owner and requested the engine owner bring up and reuse a new motor from a boat that sank in shallow water.
- <sup>36</sup> Recommendation from the Administration Chapter of the 2005 Carl Moyer Program Guidelines